ORIGINAL

MONTANA
TELECOMMUNICATIONS
ASSOCIATION

Geoffrey A. Feiss, General Manager

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April 11, 2002

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William F. Caton, Acting Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C.

RE: *Ex Parte* Presentation: CC Docket Nos. 96-45, 00-256 and 02-33

Dear Mr. Caton,

On April 9, a delegation of MTA member company executives (list attached) met with Commissioners' legal advisors, including:

- Matt Brill, legal advisor to Commissioner Abernathy
- Jordan Goldstein, legal advisor to Commissioner Copps
- Dan Gonzalez, legal advisor to Commissioner Martin.

Two copies of this cover letter, a summary memo, and presentation are being mailed to you for each of the proceedings mentioned in MTA's presentation.

Sincerely,

Geoffrey A. Feiss
General Manager

Attachments

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Before the
FEDERAL COMMUNICATIONNS COMMISSION
Washington, D.C. 20554

In the Matter of:

Federal-State Joint Board on Universal Service	)))	CC Docket No. 96-45.
Access Charge Reform	))	CC Docket No. 00-256.
Wireline Broadband NPRM	)	CC Docket No. 02-33.

Ex Parte Presentation by the Montana Telecommunications Association

Ex Parte Communications: April 8 and April 9, 2002

The Montana Telecommunications Association (MTA) presented the attached PowerPoint slides to staff of the Wireline Competition Bureau on April 8, 2002, and to the legal advisors of Commissioners Abernathy, Copps and Martin on April 9, 2002.

Copies to Commission Secretary

MTA is providing two copies of this summary and the attached presentation to the Secretary of the Commission for each of the proceeding/dockets discussed.

Summary

MTA expressed its concern/opposition to portability of universal service at the incumbent's rate. Such a policy creates a windfall for wireless CETCs in particular, which in turn leads to uneconomic competition in rural areas, causing a "lowest common denominator" approach to telecommunication service in rural America.

MTA recommends gearing universal service portability to individual ETC costs. MTA also recommends that the FCC create verification and enforcement procedures that determine accurately that CETCs' subscribers actually live and work in the CETC's universal service study area. We further recommended that the CETC annually certify, as do ILECs, that they use universal service for its intended purposes.

MTA expressed its concern about the continual trend toward increasing end-user charges while reducing access and other charges borne by entities other than end users. The cumulative effect of such policies effectively creates subsidies in which low volume, and rural users subsidize urban, high volume users.

With regard to the Commission's NPRM on wireline broadband services, MTA expressed its concern that defining broadband services as "information services" can negatively affect rural companies' ability to maintain investment in shared infrastructure by removing a portion of shared facility costs from the settlements process. Such a policy is contrary to the public policy of promoting investment and deployment of broadband networks As MTA pointed out, the rural independent telcos of Montana are exemplary in the level of service delivery and infrastructure investment in Montana. For example, these companies have established over 90 rural videoconference sites in rural communities throughout the state; and have deployed DSL capability to over 150 towns in the state. Moving broadband to an "information service" category threatens this investment.

On the other hand, MTA encourages the Commission's inquiry in the Broadband NPRM to explore ways by which the contribution base can be expanded in a technology-neutral manner for funding predictable, sufficient universal service into the future in the face of decline contributions and increasing pressure on universal service funding. In this regard, MTA believes it is time to consider whether facilities based Internet provides should be required to contribute to support universal service.

MTA also expressed its concern with the "per connection" concept in the Commission's NPRM on the universal service funding mechanism. We are concerned that moving to a "per connection" regime may again force more costs to be borne by the end-user, and relieve IXCs from their obligation to fund fairly universal service, as required in Sec. 254 of the Telecommunications Act of 1996.

The attached PowerPoint presentation was provided to the Commission during MTA's meetings.

Respectfully submitted,

/s/

Geoffrey A. Feiss
General Manager
Montana Telecommunications Association
208 North Montana Avenue, Suite 207
Helena, Montana 59601
406.442.4316

April 11, 2002

MONTANA
TELECOMMUNICATIONS
ASSOCIATION

Meeting with Commissioners' Legal Advisors
Federal Communications Commission
Tuesday, April 9, 2002
2:00 p.m.

Roster of Attendees

3 RIVERS COMMUNICATIONS. FAIRFIELD, MT
Operations Manager
Steve Krogue

BLACKFOOT COMPANIES. MISSOULA, MT
Bill Squires, Vice President, General Counsel

INTERBEL TELEPHONE COOPERATIVE. EUREKA, MT
Board Members
Jill Yost
Bobbi Stoken

NORTHERN TELEPHONE COOPERATIVE. SUNBURST, MT
General Manager
Wayne Vick

RANGE TELEPHONE COOPERATIVE. FORSYTH, MT
General Manager
Curtiss Fleming

SOUTHERN MONTANA TELEPHONE COMPANY. WISDOM, MT
General Manager
Conrad Eklund

MONTANA TELECOMMUNICATIONS ASSOCIATION. HELENA, MT
General Manager
Geoff Feiss

Montana Telecommunications Association

Federal Communications Commisison
Commissioners' Legal Advisors: Jordan Goldstein (Copps), Matt Brill (Abernathy), Dan Gonzalez (Martin)
April 9, 2002

Summary of Issues

- Wireless CETCs
  - ICLS Portability
  - Access avoidance
- Universal Service Funding Mechanism
- Cable, Wireline Broadband PRMs
- All or Nothing Rule

Wireless/Wireline Disparity

- Wireless CETCs do not incur same costs as RoR carriers
  - CETCs don't offer similar exchange access services
  - CCL charge is based on embedded RoR loop costs
  - CETCs avoid ILEC costs: e.g., equal access; state/federal rate, quality regulations; COLR; NECA audits; mandatory accounting systems, "LEC" obligations
  - Other differences: LNP, E-911, TTY, hearing aid compatibility
- Wireless carriers avoid access, benefit from captive interexchange customer

ICLS Portability Creates Windfall, Uneconomic Competition

- ICLS is intended to recover actual CCL costs that are allocated solely to interstate exchange access service
- ICLS portability compensates CETCs for costs they don't incur
- Encourages uneconomic competition most where it's least sustainable: high cost areas
- Leads to lowest common denominator investment, service
- Threatens high cost fund growth
  - US Cellular, WA: $2.2M/Qtr.

ICLS Recommendations

- Portable support should be based on verifiable CETC costs
  - Use NECA/USAC cost studies and audit process
- Wireless ETCs should be able to verify actual subscriber location, other than PO Box
  - Potential for abuse: e.g., US Cellular, WA
- CETCs should verify that they use USF as intended (Sec. 254(e) and (k))

Universal Service Funding

- Specific, Predictable, and Sufficient (Sec. 254(b)(5))
  - Every carrier that provides interstate telecommunications services shall contribute
  - Question whether IXCs contribute equally under Funding Mechanism PRM
- Declining interstate revenues
  - IP Telephony
  - Wireless access circumvention
- Loop/LEC cost recovery
- GAO 02-187:
  - Statutory framework permits FCC to require any provider of interstate telecommunications to contribute, if public interest requires. Might need to revisit how best to provide universal service to all Americans

Wireline Broadband

- FCC declaratory ruling calls cable-modem service "information service," with no telecom service component
- Wireline broadband NPRM calls wireline broadband "information service," with telecom service component
  - Is broadband a service or facility?
  - Effect on small companies of removing wireline broadband telecom component from settlements, return on investment

All or Nothing

- All-or-nothing rule should not apply to single study area RoR carriers
  - RoR carriers operating all study areas under RoR regulation would not operate affiliates under two regimes
- FCC should eliminate all-or-nothing rule, or exempt RoR carriers seeking to keep all exchanges—new and existing—under RoR.